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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,906	03/31/2004	Armin Eisenhardt	A91970	2905
30008	7590	09/20/2005	EXAMINER	
GUDRUN E. HUCKETT DRAUDT			ESTREMSKY, SHERRY LYNN	
LONSSTR. 53			ART UNIT	
WUPPERTAL, 42289			PAPER NUMBER	
GERMANY			3681	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/708,906

Applicant(s)

EISENHARDT, ARMIN

Examiner

Sherry L. Estremsky

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 8-16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The disclosure is objected to because of the following informalities: in paragraph [0043], line 7, "housing 22" should be --housing 20--; in paragraph [0049], line 11, it appears "ths" should be --thus--; and in paragraph [0051], line 4, "shifting gate 18" should be either --switching member 18-- or --shifting gate 8--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 17-19 are rejected under 35 U.S.C. 102(anticipated) as being anticipated by Potter et al., U. S. Patent 6,431,289.

Potter et al. discloses a switchable gearbox of a handheld power tool 10 (figure 1).

Gear 306 (shown in figure 13, for example) has a first switching stage and a second switching stage arranged sequentially in an axial direction of the gear. The gear includes a gear arrangement 400 moveable in the axial direction of the gear between the first and second switching stages (compare figures 23 and 24; column 13, line 52 to column 14, line 31).

Actuator 510 is rotatable about an axis parallel to the axial direction of the gear (column 12, lines 41-44 - discussing rotary selector cam 520 and column 15, lines 21-25 - discussing the coupling of actuator 510 and rotary selector cam 520).

At least one shifting gate 544a and 544b (figure 13) are rotatable together with the actuator 510, wherein the shifting gate interacts with the gear arrangement for moving the gear arrangement in the axial direction (column 13, lines 38-41, the right-most wire clip 522 in figure 13 causing axial movement of the gear arrangement 400).

(claim 1)

Figure 27a shows at least one shifting gate 544b. It includes a central area with sections 566 and 568 extending linearly and at a slant relative to a circumferential direction of the gear.

(claim 2)

The shifting gate 544b shown in figure 27a (also representative of 544a) has end sections 560 and 564 on each end of the central area, wherein the end sections extend parallel to the circumferential direction.

(claim 3)

At least one guide pin 526 (figure 13) is movable together with the gear arrangement 400 in the axial direction and engaging at least substantially without play the at least one shifting gate 544b (column 13, lines 5-7 and lines 25-31).

(claim 4)

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Two guide pins 526 are provided and displaced relative to one another relative to the circumferential direction of the gear, wherein the two guide pins each engage a shifting gate 544a and 544b (figure 13).

(claim 5)

Wire bracket 522 surrounds at least partially in the circumferential direction of the gear the gear arrangement 400 and is secured in the circumferential direction on a housing (by slots 286 in housing portion 200) of the power tool, the at least one guide pin 526 being part of the wire bracket 522.

(claim 6)

Figures 13, 27b, and 28 show a locking device including spring 523 for the actuator (column 14, line 56 to column 15, line 15).

(claim 7)

The first and second switching stages are speeds having different initial rotary speed.

(claim 17)

The gear 306 is a planetary gear including a ring gear 400, the ring gear 400 being the gear arrangement.

(claim 18)

Figure 1 shows a power tool 10 including the gearbox according to claim 1 (as shown in figure 13, column 3, lines 59-62).

(claim 19)

Allowable Subject Matter

5. Claims 8-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent 3,872,742 (States) March 1975 - shows a tool with a planetary gear including an axially movable ring gear. A rotating switch with a pin cooperating with a shifting gate moves the ring gear to establish either of two speeds.

U. S. Patent 4,617,837 (Kataoka et al.) October 1986 - discloses a hand tool with a change speed mechanism actuated by a rotary switch with a pin guided in a shifting gate having a central area extending linearly and at a slant relative to the circumferential direction of the tool and end sections extending parallel to the circumferential direction, thereby converting rotary motion to axial motion.

U. S. Patent 6,070,675 (Mayer et al.) June 2000 - discloses a power tool including a shiftable planetary gear, an element of the planetary gear being axially shiftable by a wire bracket engaging a groove encircling the element.

U. S. Patent 6,086,502 (Chung) July 2000 - discloses a power tool having a shiftable planetary gear, a ring gear of the planetary gear being axially movable by a wire bracket which is secured in the circumferential direction on a housing of the tool.


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherry L. Estremsky whose telephone number is (571) 272-7090. The examiner can normally be reached on Tuesday and Friday from 7:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SHERRY ESTREMSKY
PRIMARY EXAMINER
AV3681 9-16-05